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Section IV:**AMENDMENT UNDER 37 CFR §1.121****REMARKS****Summary of Telephone Interview**

On June 21, 2004, examiner's supervisor Jeff Smith and applicant's agent Robert H. Frantz, held a telephone interview at the applicant's agent's request in order to consider a proposed amendment as supplied by applicant's agent. Examiner Thein also participated in the interview, as she will be responsible for the remainder of the examination of the present patent application.

Applicant's agent verbally summarized the inventor's interpretation of the cited art, including the fact that the two references were limited to presenting images of *real* (e.g. so-called bricks-and-mortar) stores and malls in a online shopping experience. The examiners agreed with this interpretation.

Applicant's agent then summarized the methods and mechanisms by which the present invention provides an online experience which simulates travel through a real store, but which is in reality only associated with online-only merchants. Applicant's agent proposed amending the claims to use the terms "cyberstore" and "cybermall" for such online-only merchant collections, as well as language to specify that the images presented were simulations of store facades, store interiors and mall interiors.

After some discussion and questions, examiners agreed that the proposed amendment read as intended, and that some additional consideration would be needed in order to determine if the rejections were overcome by the amendment. Addition of a limitation to vector graphics images, such as those use to simulate interiors of buildings in games, was discussed and was considered favorable additional claim language.

The amendment presented herein adopts the changes discussed.

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Rejections under 35 U.S.C. §112

In the Office Action, the examiner has rejected claims 1 - 4 and 9 - 12 under 35 U.S.C. §112, second paragraph, for reasons of failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention, with respect to how and where the mall map is presented or conducted, and with respect to how a position initializer functions.

These claims have been amended to specify how and where the map is displayed (e.g. the map is displayed by a web browser to a user). The terminology has been amended to exchange "customer" for "web browser user" such that the position initializer is more clearly recited (e.g. the position is initialized to a virtual position coordinate while the actual user is not moving at all).

Applicant requests reconsideration and withdrawal of these rejections.

Rejections under 35 U.S.C. §103

In the Office Action, Examiner Chang rejected claims 1 - 12 under 35 U.S.C. §103(a) as being unpatentable over U.S. Published Patent Application 2001/0034661 A1 to Ferreira (hereinafter Ferreira) in view of U.S. Patent 6,381,583 B1 to Kenney.

Ferreira and Kenney both pertain to online representations of *actual, real* stores, buildings and malls. For example, Ferreira states consistently throughout his disclosure that the digitized representations of their system correspond to real, geographic features and constructs (emphasis added to the following quotations):

Methods and systems for presenting a virtual representation of a real city
(Title)

...

A virtual city service that provides access to a virtual city application is provided. Users may navigate among a virtual representation of a real region, such as a city. The interface may include images of actual city blocks that have interactive items of interest such as storefronts.

(Abstract)

...

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[0041] The present invention relates to a localized navigation system that may use digital imagery and sound to recreate, in exacting detail, a virtual reality simulacrum of any desired real world city.

...

[0049] The digitized images may then be edited and stitched together using any suitable stitching technology at step 105 and stored in database 110 at step 107. The stitching may link the images of the city blocks to one another in image database 110. Whatever links exist in the real city, such as from one city block to another, the same links may exist between the digital images of the virtual city. The result may be a network of inter-linking images that may be freely roamed, from one image to another, much like real life. This is merely an illustrative arrangement of hardware and processes. Any other suitable arrangement and processes may be used.

Ferreira is silent as to associating *simulated* images of stores and mall spaces with *online-only* merchant web sites (e.g. with "cyberstores") to provide an appearance to a user of a relationship of the online cyberstore with a real store.

Similarly, Kenney is directed towards electronic, online shopping where the stores depicted online correspond to *real*, "*bricks-and-mortar*" stores (emphasis added to the following quotations):

An interactive electronic shopping system and method create a virtual shopping facility from an actual shopping facility, such as a grocery store, restaurant, or office. A shopper at a computer or other suitable display device can move through the virtual shopping facility and see replicas of what would be seen in moving through the actual shopping facility. Various lists of items selected for purchase can be made, and predetermined lists and information can be displayed. Changes in the actual shopping facility, such as a change in a display of goods, can be accommodated by replacing prior data with new data so that the virtual shopping environment is kept current with the actual shopping facility. (Abstract)

...

...Using the present invention, a shopper can browse through a virtual

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duplicate of an actual store in a manner similar to being in the actual store itself. ... Changes at the actual store can be implemented in the virtual store. (Col 1, lines 45 - 57)

...

... An interactive electronic shopping system of the present invention comprises: means for converting images of a shopping facility into encoded digital signals representing the images as would be seen by a shopper at a physical embodiment of the shopping facility; ... (Col 1 line 67 - col. 2 line 4)

...

... This method comprises: selecting a physically embodied shopping facility in which a shopper can purchase from among a plurality of products; converting images of at least a portion of the shopping facility and the plurality of products into encoded digital signals; storing the encoded digital signals in a computer storage medium; and providing access to the stored encoded digital signals such that portions of the stored encoded digital signals are selectable and transmissible to a computer for displaying, on a monitor of the computer, virtual movement within a visual representation of the shopping facility and for permitting examination of visual representations of selected products in response to selected stored encoded digital signals. (Col. 2, lines 27 - 39)

...

A digital camera provides an inexpensive and versatile way for a store owner to electronically capture images of the store's contents for computerized interactive viewing by its customers. The present invention uses this to enable a viewer of a display screen to visually proceed through a virtual embodiment of the store in a fashion similar to walking up and down aisles at the actual store. The viewer can view items on each aisle with the ability to move closer to read images of actual labels on products on shelves or in displays. The digitization of the images generates electronically stored data that allows for efficient substitution of new images if products are moved or changed in a store. Items that the store chooses to highlight, such as for "sale" or "special" items, can flash or otherwise be made distinctive as the customer approaches them on the virtual journey through the displayed store. (Col. 3, lines 48 - 64)

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...

An electronic shopping system in accordance with the present invention is represented in FIG. 1. The system creates an electronically produced, electronically transmissible visual replica of a display of goods or other objects at a shopping facility or other particular environment. ... (Col. 4 line 65 - col. 5 line 2)

Kenney is silent as to representation of an *online-only* cyberstore as a virtual physical store.

Our invention, however, not only provides online representations of real stores in one embodiment, but in another embodiment, our invention associates virtual (or *simulated*) representations of online shopping web sites, where the online shopping web sites are *online-only* merchants (e.g. Amazon.com, etc.). As the word "virtual" is somewhat difficult to define in the many manners in which it has come into use since the filing of the present patent application, the word "simulated" may be more accurate as to our invention:

simulate

1 : to give or assume the appearance or effect of often with the intent to deceive:

IMITATE;

2 : to make a simulation of (as a physical system)

(source: www.webster.com)

For example, we have disclosed and defined "cybermall" and "cyberstore" as follows (emphasis added):

[0003] Many online shopping "malls", or "cybermalls", have been developed as web-based purchasing has become culturally acceptable to consumers and as online purchasing security concerns have been addressed. However, these online shopping malls are typically little more than a group of hyperlinked web sites or portions of web sites, accessible through a common "home" page.

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[0004] Cybermalls exist currently as a loose collection of store web sites, for example, a grouping of online shoe stores accessible by a single hop or "click" from a common access point.

...

[0021] The present invention provides an enhanced sensory experience coupled to an online shopping mall web site which creates an apparent geographical coupling between cyberstores within the online mall and to enable store proprietors to control shopping environment factors.

In our background section of our disclosure, we have described the disadvantages to such *online-only* merchants compared to "bricks-and-mortar" merchants who have actual, real stores and shops. For example, a bricks-and-mortar merchant usually has developed a store image including wall designs, shelves and display case designs, colors and graphics which tie into their logos, and even specific types or sets of sounds and music which is played through a speaker system within the store. Even the front or facade of such bricks-and-mortar merchants are designed to be distinctive and recognizable. When these bricks-and-mortar merchants develop an online shopping site, they often use the same images, graphics, colors, and even sounds to evoke the same recognizable experience of being in a real store.

However, online-only merchants have to date only been able to present web pages, with pictures of products, icons for adding items to carts, etc. This is a very different and less powerful merchandising experience to most users.

As such, when we refer to a virtual or online shopping mall, or to a cybermall or cyberstore, we are referring to a grouping of *online-only* merchants and stores for which there is no corresponding real, bricks-and-mortar store.

In preparation of this reply and in order to select claim language which will convey this interpretation of our claims in view of our disclosure, we searched a number of Internet terminology dictionaries, including WhatIs.com, NetLingo.com, and Webopedia.com, and found no other, ordinary definitions for "cybermall" or "cyberstore". Therefore, the terms "cybermall" and "cyberstore" as we are using them are provided their meanings by our disclosure, which are

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not contrary to the generally accepted usages of the terms.

Another manifestation of this structural and difference between the cited references and our invention is that we disclose use of non-photographic images to represent cyberstores, as well as photographic images:

[0031] The image may be a photograph, such as images taken from within an actual mall, in the form of well-known graphic web objects (GIF, JPEG, etc.), or a simulation of a real view of the mall using vector and/or bit map graphics similar to those used in gaming technologies. (emphasis added)

Both of the cited references are silent as to the use of "simulations of real views" including vector graphic images, but instead they disclose only digital photographs of *actual* real views. This is because they do not offer *apparent geographical* representation of *online-only* merchant sites (e.g. cyberstores and cybermalls).

For the following reasons we believe that the rejections should be withdrawn in view of the comments of this reply and the present amendment:

1. The combination or modification of the references in the manner suggested by the examiner does not teach all the claimed elements, steps, or restrictions. MPEP §2143.03 states:

All Claim Limitations Must Be Taught or Suggested. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

The facts derived from the references and set forth in the foregoing paragraphs indicate that the examiner's suggested combination and modification of the cited references does not teach all claimed elements, limitations or steps, including the elements necessary to produce an apparent relationship between a vector-graphics simulated view of a real, existing store or mall and a cybermall or cyberstore where no such physical merchant facility actually exists.

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2. Motivation or suggestion to modify the cited references to include elements necessary to produce an apparent relationship between a vector-graphics simulated view of a real, existing store or mall and a cybermall or cyberstore where no such physical merchant facility actually exists is not found in the cited art. MPEP §2143.01 states:

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

Applicant respectfully requests withdrawal of the rejections and allowance of claims 1 - 12.

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